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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,634	01/14/2004	Jerome Renaudot	1759.150	4863

23405 7590 04/28/2005

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ALBANY, NY 12203

EXAMINER

KRAMER, DEVON C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,634

Applicant(s)

RENAUDOT, JEROME

Examiner

Devon C Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1) Acknowledgment is made of applicant's claim for foreign priority based on applications filed in France on July 2, 2002 and July 27, 2001. It is noted, however, that applicant has not filed a certified copy of the two applications as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 103

2) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raidel (4541653) in view of McKenzie et al (2001/0008333).

In re claims 1 and 3, Raidel provides a pneumatic front suspension assembly for an industrial vehicle comprising: a front axle (34) linked to a pair of side members (32); a pair of air bags (col. 1 lines 59-63, col. 2 lines 43-46) and on each side: a rigid arm (22) of which one extremity is articulated (figure 2) relative to a side member and of which an other extremity receives the axle and a bottom part of one of the air bags; a pair of links (figure 3) mutually articulated about a pin substantially parallel to the axle, an upper link of these the pair of links being articulated relative to the side member, a lower link of the pair of links being articulated relative to the rigid arm, the links capable

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of absorbing transverse loads so as to substantially eliminate transverse movements of the axle during vertical motions of the axle without resort to a transverse link between a side member and the axle; and a basically U-shaped additional element forming an anti-roll bar (48), comprising: a transverse rod linked to the lower link at an articulation point of the lower link with the rigid arm. Raidel teaches the anti-roll bar integral with the lower link. Raidel is silent to the air bags adjusting the height of the axle relative to side member.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a separate upper and lower link and roll bar in Raidel since it has been held that where it is desirable to replace just one part of an assembly that was previously integral, it would be obvious to make the items separable for that purpose, thus reducing the manufacturing costs and reduce the costs of replacement parts. In re Dulberg, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have placed the transverse rod of Raidel as modified between a bottom extremity of each lower link and an articulation point of the lower link with the rigid arm, since it has been held that rearranging parts of an invention involves only routine skill in the art, further this would allow one to access the undercarriage of Raidel for maintenance without the transverse rod getting in the way. In re Japikse, 86 USPQ 70.

McKenzie et al teaches an air spring adjusting the height of an axle relative to a side member. (Abstract)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the suspension of Raidel with an air spring where the height can be changed as taught by McKenzie et al merely to change the feel of the suspension when carrying different loads and to set the ride according to a drivers preference or road conditions.

In re claim 2, see figure 2 of Raidel.

In re claim 4, see item 46 of Raidel.

In re claim 5, figure 1 of Raidel shows the rigid arm extending from an above view, where the air bag is situated on item 26. Item 26 is considered part of the rigid arm and has a width, as seen by the dashed line, which is greater than that of the rest of the rigid arm.

In re claim 7, Raidel teaches the links having a width which substantially eliminates transverse movements of the axle during vertical motions of the axle. Please note that substantially eliminates does not mean totally eliminate. The links of Raidel are capable of performing this function.

4) Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raidel (4541653) in view of McKenzie et al (2001/0008333) and further in view of Vandenberg (5690353).

Both Raidel and McKenzie lack the teaching of a broadened area made integral with an upper face of the axle.

Vandenberg teaches a broadened area made integral with an upper face of the axle. (Figure 2A)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the suspension of Raidel as modified by McKenzie with the broadened area, where the air spring sits, integral with the upper face of the axle as taught by Vandenberg merely as a design choice and to provide the spring device at the exact point where the vehicle is absorbing forces (axle) thus reducing the number of parts and time of assembly.

5) Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raidel (4541653) in view of McKenzie et al (2001/0008333) and further in view of Fenton (6328324).

Raidel as modified by McKenzie lacks the teaching of the links comprising a pair of vertical plates.

Fenton teaches links (54, 56) comprising a pair of vertical plates. (Figure 4). The upper link having a width substantially equal to a distance separating the plates.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the modified suspension assembly of Raidel as modified by McKenzie with links comprising parallel plates as taught by Fenton merely to provide link members which are strong, durable and easily manufactured thus keeping costs of production low.

Response to Arguments

6) Applicant's arguments filed 2/22/05 have been fully considered but they are not persuasive.

Applicant argues that Raidel lacks the teaching of the links absorbing transverse loads. Please note that applicant specifically used the language "capable of" and "substantially eliminate" to describe how the instant application operated with respect to the transverse movements. Please note that it is inherent that the links of Raidel can absorb transverse loads and can limit transverse movements. The term "substantially eliminate" does not mean totally eliminate. Applicant amended claim 1 to define the location of the transverse rod, which was found obvious in paragraph 3 above. The transverse rod would perform the same function if placed in either the position of Raidel or in the position of the instant application.

Conclusion

7) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 571-272-7118. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Devon C Kramer
Examiner
Art Unit 3683

DK

DEVON C. KRAMER
PATENT EXAMINER

Devon Kramer
4/22/05